



Ancillary Document Review Supplement
(This form must be filled out electronically.)

This form is to be used when reviewing interpretive and/or policy statement(s) in conjunction with the review of a rule.

Interpretive and/or policy statements are issued by the Department of Revenue under authority of RCW 34.05.230. These statements explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. These statements include documents such as Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs).

All responses should be in **bold** format.

Interpretive or policy statement(s) being reviewed (provide number and title):

ETA 199.04.105 Persons Serving as Employee and Engaging in Business

Date issued: **September 2, 1966**

Reviewer: **JoAnne Gordon**

Date reviewed: **March 2002**

This review is in conjunction with the review of the following rule(s) (provide WAC number(s) and title(s)): **WAC 458-20-164 Insurance agents, brokers, and solicitors**

Briefly explain the subject matter of the document(s):

ETA 199 explains that a person may be an employee and in a separate capacity engage in business activities for his or her own benefit.

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
	X	Does the document provide information not currently in a rule, other interpretive or policy statement, or WTD?
X		Is the document providing the result(s) that it was originally designed to achieve?

If the answer is "no" to any of the questions above, provide a brief explanation for that response.

RCW 82.04.360 clearly stipulates that persons acting in an independent capacity are engaging in business and subject to the B&O tax. In addition, ETA 199 does not reflect 1991 legislative changes clarifying when full-time life insurance agents are considered employees rather than independent contractors.



Review Recommendation:

- _____ **Amend**
- X** **Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- _____ **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)

Briefly explain your recommendation:

In light of the clear language of RCW 82.04.360, ETA 199 serves no purpose. The ETA should be canceled.

Manager action: Date: _____

_____ Reviewed and accepted recommendation